

REMARKS

Claims 1-9, 11, and 13-17 are pending in the application. Claims 6-9 and 11 are withdrawn. Claims 10 and 12 have been cancelled. New claims 13-17 have been added. Applicant reserves the right to pursue the original and new claims in this and other applications. Applicant gratefully acknowledges the statement that claim 5 contains allowable subject matter. The allowable subject matter of claim 5 has been incorporated into new independent claim 13.

Claims 1, 3, and 4 stand rejected under 35 U.S.C. §102(e) as anticipated by U.S. Patent 6,544,258 to Fleenor et al. (hereinafter "Fleenor"). Applicant respectfully traverses the rejection.

Independent claim 1 recites, *inter alia*, "at least one electrically conductive section ... comprising a temperature independent circulation-promoting means adapted to enhance blood flow."

Fleenor relates to an improved return electrode. The problem Fleenor attempts to solve is the elimination of patient burns without the need for disposable electrodes and monitoring circuits. *See Fleenor at col. 4 lines 21-27.* One embodiment of Fleenor, illustrated in FIG. 22 and discussed in detail starting at col. 27, line 13, relates to an electrode having a sleeve and pump assembly. The sleeve provides heating and cooling characteristics to the patient through the electrode. *Id. at col 27, lines 20-29.* An interior chamber of the electrode is filled with a material capable of being heated and/or cooled. The material is input into the interior chamber through an input end and output from an output end of the chamber. *Id at col. 27, lines 49-56.* A pump is used to circulate material through the sleeve. However, Fleenor fails to teach temperature independent circulation promoting means. Accordingly, Fleenor fails to teach "at least one electrically conductive section ... comprising a temperature independent circulation-promoting means adapted to enhance blood flow," as recited in independent claim 1. Claims 3 and 4 depend from claim 1 and are allowable for at least the reasons mentioned above. Applicant respectfully requests withdrawal of the rejection.

Claim 2 stands rejected under 35 U.S.C. § 103(a) as being obvious over Fleenor in view of U.S. Patent 4,387,714 to Geddes et al. (hereinafter "Geddes"). The rejection is respectfully traversed. Claim 2 depends from claim 1 and is allowable over Fleenor for at least the reasons mentioned above with respect to claim 1. Geddes fails to overcome the deficiencies of Fleenor. Accordingly, Applicant respectfully requests withdrawal of the rejection.

Claim 5 stands objected to as being dependent upon a rejected base claim, but is otherwise allowable. Claim 5 depends from claims 1 and 2, which are believed to be allowable for at least the reasons set forth above. Accordingly, claim 5 is believed to be allowable. The objection should be withdrawn.

In view of the above, Applicant believes the pending application is in condition for allowance. Favorable action on the merits is earnestly solicited.

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